UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DR. RICHARD SUNDAY IFILL, Legal Assistant, Spiritual Leader of S.L.G. Youth Inc.; JASEN DEBBAGH; TRAVIS BOURNE; SIDNEY WISDOM; WALTER DANDRIDGE; KAREEN DAVIS; ANTHONY JULIUS; LEONARD SAMPSON; LANCE LILES; HECTOR SANTIAGO; DAVID WASHINGTON; EDWIN GREEN; HAYWARD CORY; ALVAUN THOMPSON; TERRY WILSON; WILLIAM HARRIGAN,

Plaintiffs,

-against-

NEW YORK COUNTY DISTRICT ATTORNEY; BRONX COUNTY DISTRICT ATTORNEY; KINGS COUNTY DISTRICT ATTORNEY; QUEENS COUNTY DISTRICT ATTORNEY; STATEN ISLAND DISTRICT ATTORNEY; THE LEGAL AID SOCIETY; NEW YORK COUNTY SUPREME COURT; BRONX COUNTY SUPREME COURT; KINGS COUNTY SUPREME COURT; QUEENS COUNTY SUPREME COURT; STATEN ISLAND SUPREME COURT; CONGRESS OF THE UNITED STATES,

Defendants.

14-CV-2741 (LAP)

ORDER OF DISMISSAL

LORETTA A. PRESKA, Chief United States District Judge:

Plaintiffs, who submitted their complaint while all of them were held in the George Motchan Detention Center on Rikers Island, bring this *pro se* action under 42 U.S.C. §§ 1983, 1985, and 1986, alleging constitutional violations and conspiracies as to criminal actions brought against them and others in the state courts located in the counties that comprise the five boroughs of the City of New York. By orders dated June 2, 2014, the Court granted *in forma pauperis* status to all of the Plaintiffs with the exceptions of Plaintiffs Ifill and Sampson. Plaintiffs' claims are dismissed for the reasons set forth below.

STANDARD OF REVIEW

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint, or portion thereof, that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b); *see Abbas v. Dixon*, 480 F.3d 636, 639 (2d Cir. 2007). While the law mandates dismissal on any of these grounds, the Court is obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the "strongest [claims] that they *suggest*," *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (internal quotation marks and citations omitted, emphasis in original).

BACKGROUND

Plaintiffs raise claims under 42 U.S.C. §§ 1983, 1985, and 1986, alleging constitutional violations and conspiracies as to: (1) the prosecution of criminal actions against Plaintiffs and others by the offices of the five district attorneys for the counties that comprise the five boroughs of the City of New York, (2) how criminal proceedings are carried out by the state courts located within those counties, and (3) the manner of the Legal Aid Society's defense of indigent criminal defendants being prosecuted in those courts. Plaintiffs also raise claims concerning the conditions of their and others' confinement in the "bullpen" holding cells of what appear to be the state courts mentioned above. All of the Plaintiffs have signed the complaint but have "authorized" Plaintiff Ifill, who describes himself as "a legal assistant and the Spiritual Leader of

S.L.G. Youth Inc.," to act on their behalves. This action is brought on behalf of Plaintiffs and on behalf of "those similarly situated."

DISCUSSION

A. Standing to bring claims

Plaintiff Ifill cannot raise claims on behalf of anyone but himself, and this action cannot be brought by any Plaintiff as a class action on behalf of "those similarly situated." In addition, to the extent that S.L.G. Youth Inc. is a corporation, Plaintiff Ifill cannot raise claims in this action on behalf of that entity. A nonattorney can only represent himself *pro se*; he cannot represent another person or a corporation. *See, e.g., United States ex rel. Mergent Servs. v. Flaherty*, 540 F.3d 89, 92 (2d Cir. 2008); *Iannacone v. Law*, 142 F.3d 553, 558 (2d Cir. 1998). In addition, a *pro se* plaintiff cannot bring a class action on behalf of "those similarly situated." *See, e.g., Nwanze v. Philip Morris Inc.*, 100 F. Supp. 2d 215, 218 n.3 (S.D.N.Y. 2000), *aff'd*, 6 F. App'x 98 (2d Cir. 2001) (summary order). None of the Plaintiffs are alleged to be attorneys. Any claims raised by a Plaintiff, including Plaintiff Ifill, on behalf of another Plaintiff or on behalf of other persons are therefore dismissed without prejudice because the Plaintiff raising such claims lacks the standing to do so. In addition, to the extent that Plaintiff Ifill asserts claims on behalf of S.L.G. Youth Inc., which seems to be alleged to be a corporation, such claims are dismissed without prejudice because Plaintiff Ifill lacks the standing to raise such claims.

B. Plaintiff Sampson

By order dated May 22, 2014, the Court directed Plaintiff Sampson to either pay the $400.00 in fees that are required to file a civil action in this Court or submit a completed request to proceed *in forma pauperis* and prisoner authorization form within thirty days. On May 30, 2014, the order was returned to the Court. The Court has learned that on May 1, 2014, Plaintiff Sampson was released from the custody of the New York City Department of Correction.

Plaintiff Sampson has not complied with the Court's order, has failed to notify the Court of a change of mailing address, and has not initiated any further contact with the Court, written or otherwise. Accordingly, Plaintiff Sampson's claims are dismissed without prejudice, pursuant to Fed. R. Civ. P. 41(b), for failure to comply with the Court's order.

C. Plaintiff Ifill

Plaintiff Ifill seeks to proceed *in forma pauperis*. But his claims raised on his own behalf must be dismissed without prejudice because he is barred from filing any civil action *in forma pauperis* while he is a prisoner. Under 28 U.S.C. § 1915(g), the *in forma pauperis* statute's "three strikes" provision:

> [i]n no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding [*in forma pauperis*] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

In a memorandum decision and order dated February 13, 2012, the United States District Court for the Northern District of New York held that Plaintiff, as a prisoner, had incurred "three strikes" under § 1915(g), and it granted the defendants' motion to revoke Plaintiff Ifill's *in forma pauperis* status in the action that he brought in that court. *See Ifill v. Evans*, No. 10-CV-1474 (N.D.N.Y. Feb. 13, 2012).[1] Although Plaintiff Ifill has, with the other Plaintiffs, brought this action seeking *in forma pauperis* status, he does not allege that he is in imminent danger of serious physical injury.[2] Instead, Plaintiff Ifill, with the other Plaintiffs, alleges constitutional violations and conspiracies associated with the criminal action(s) brought against him and others

[1] Plaintiff responded to the defendants' motion with opposition papers and filed a sur-reply after the defendants' filed a reply to his opposition. *Ifill*, No. 10-CV-1474 (N.D.N.Y.) (ECF Nos. 36, 39, 45, & 48.)

[2] An imminent danger is one "existing at the time the complaint is filed." *Malik v. McGinnis*, 293 F.3d 559, 563 (2d Cir. 2002). A danger "that has dissipated by the time a complaint is filed" is not sufficient. *Pettus v. Morgenthau*, 554 F.3d 293, 296 (2d Cir. 2009).

in the state courts. Plaintiff Ifill is thus barred from bringing his claims in this action *in forma pauperis*. The Court therefore denies Plaintiff Ifill's request to proceed *in forma pauperis* and his claims are dismissed without prejudice. Plaintiff remains barred from filing any future civil action in a federal court *in forma pauperis* while he is a prisoner unless he is under imminent danger of serious physical injury. *See* § 1915(g).

D. Sovereign immunity

Plaintiffs'[3] claims against the Congress of the United States must be dismissed under the doctrine of sovereign immunity. Sovereign immunity bars federal courts from hearing all suits against the federal government, including its agencies, officers, and employees acting in their official capacities, except where sovereign immunity has been waived. *See, e.g., United States v. Mitchell*, 445 U.S. 535, 538 (1980) (quoting *United States v. Sherwood*, 312 U.S. 584, 586 (1941)); *Dotson v. Griesa*, 398 F.3d 156, 177 (2d Cir. 2005); *Makarova v. United States*, 201 F.3d 110, 113 (2d Cir. 2000); *Robinson v. Overseas Military Sales Corp.*, 21 F.3d 502, 510 (2d Cir. 1994) ("Because an action against a federal agency or federal officers in their official capacities is essentially a suit against the United States, such suits are also barred under the doctrine of sovereign immunity, unless such immunity is waived.").

Plaintiffs have failed to allege that any of their claims against the Congress of the United States are allowed due to a waiver of sovereign immunity. Plaintiffs' claims against the Congress of the United States are therefore dismissed under the doctrine of sovereign immunity and as frivolous. *See* 28 U.S.C. 1915(e)(2)(B)(i), (iii); *Montero v. Travis*, 171 F.3d 757, 760 (2d Cir. 1999) ("A complaint will be dismissed as 'frivolous' when 'it is clear that the defendants are immune from suit.'") (quoting *Neitzke v. Williams*, 490 U.S. 319, 327 (1989))).

[3] The Court's references to Plaintiffs in the remainder of this order, unless otherwise stated, do not include Plaintiffs Ifill and Sampson, as their claims have already been dismissed.

E. The Eleventh Amendment

Plaintiffs' claims under 42 U.S.C. § 1983, § 1985, and § 1986 against the New York Supreme Courts for the counties of New York (Borough of Manhattan), Bronx, Kings (Borough of Brooklyn), Queens, and Richmond (Borough of Staten Island) ("State-Court Defendants"), must be dismissed under the Eleventh Amendment. In addition, Plaintiffs' official-capacity claims against the District Attorneys for the same counties ("District-Attorney Defendants") must also be dismissed under the Eleventh Amendment. The Eleventh Amendment bars from federal court all suits by private parties against a state unless Congress has validly abrogated the state's immunity or the state consents to such a suit. *See Bd. of Trustees of the Univ. of Ala. v. Garrett*, 531 U.S. 356, 363-64 (2001); *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 98-102 (1984). This includes claims for damages, injunctive relief, and retrospective declaratory relief. *See Green v. Mansour*, 474 U.S. 64, 72-74 (1985); *Halderman*, 465 U.S. at 101-02. Congress has not abrogated New York's immunity as to § 1983, § 1985, and § 1986 claims. *Dube v. State Univ. of N.Y.*, 900 F.2d 587, 594 (2d Cir. 1990); *e.g., Keitt v. New York City*, 882 F. Supp. 2d 412, 424, 447 (S.D.N.Y. 2011); *Sierotowicz v. State of N.Y. Div. of Hous. & Cmty. Renewal*, Nos. 04-CV-3886, 3887, 3888, 2005 WL 1397950, at *1 (E.D.N.Y. June 14, 2005). And New York has not consented to being sued in federal court under those statutes. *See Trotman v. Palisades Interstate Park Comm'n*, 557 F.2d 35, 40 (2d Cir. 1977); *Jones v. Roosevelt Island Operating Corp.*, No. 13-CV-2226, 2013 WL 6504428, at *2 (S.D.N.Y. Dec. 11, 2013); *Qader v. Cohen & Slamowitz*, No. 10-CV-1664, 2011 WL 102752, at *3 (S.D.N.Y. Jan. 10, 2011).

New York State courts enjoy Eleventh Amendment immunity as arms of the State of New York. *E.g., Moreal v. New York*, 518 F. App'x 11 (2d Cir.) (summary order) (Eleventh Amendment immunity discussion in context, *inter alia*, of New York State "judicial systems"), *cert. denied*, 134 S. Ct. 297 (2013); *Casino v. Cassidy*, No. 14-CV-0629, 2014 WL 1428108, at *4 (E.D.N.Y. Apr. 10, 2014) (collecting cases); *Abrahams v. The Appellate Div. of the Supreme Court, Second Judicial Dep't*, 473 F. Supp. 2d 550, 556 (S.D.N.Y. 2007), *aff'd*, 311 F. App'x 474 (2d Cir. 2009) (summary order). In addition, New York State District Attorneys enjoy Eleventh Amendment immunity when sued in their official capacities for their decisions as to whether to prosecute. *See Ying Jing Gan v. City of New York*, 996 F.2d 522, 536 (2d Cir. 1993); *Rodriguez v. Weprin*, 116 F.3d 62, 66 (2d Cir. 1997); *Corsini v. Bloomberg*, No. 12-CV-8058, 2014 WL 2029178, at *9 (S.D.N.Y. May 15, 2014).

Plaintiff's claims for monetary damages, injunctive relief, and any claims for retrospective declaratory relief against the State-Court Defendants are dismissed under the Eleventh Amendment. In addition, such claims asserted against the District-Attorney Defendants, in their official capacities, as to their respective decisions as to whether to prosecute Plaintiffs, are dismissed under the Eleventh Amendment. All of these claims are dismissed due to Eleventh Amendment immunity and because they are frivolous. *See* § 1915(e)(2)(B)(i), (iii); *Montero*, 171 F.3d at 760.

F. Prosecutorial immunity

To the extent that Plaintiffs raise claims for monetary damages against the District-Attorney Defendants in their respective individual capacities, such claims must be dismissed under the doctrine of prosecutorial immunity. Prosecutors are immune from civil suits for monetary damages for acts committed within the scope of their official duties where the challenged activities are not investigative in nature but, rather, are "intimately associated with the judicial phase of the criminal process[.]" *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976); *see Buckley v. Fitzsimmons*, 509 U.S. 259 (1993); *Burns v. Reed*, 500 U.S. 478 (1991); *Dory v. Ryan*, 25 F.3d 81 (2d Cir. 1994). A prosecutor's decision to commence a prosecution and his or her conduct during plea negotiation and plea bargaining are protected by the doctrine of absolute prosecutorial immunity. *Hartman v. Moore*, 547 U.S. 250, 261-62 (2006); *Burns*, 500 U.S. at 492; *Pinaud v. Cnty. of Suffolk*, 52 F.3d 1139, 1149 (2d Cir. 1995); *Powers v. Coe*, 728 F.2d 97, 103-04 (2d Cir. 1984); *Taylor v. Kavanagh*, 640 F.2d 450, 453-54 (2d Cir. 1981). This immunity also covers a prosecutor's decision as to whether to turn over exculpatory evidence ("*Brady* material") to the defense. *See, e.g., Mitchell v. Siermsa*, No. 13-CV-0730, 2014 WL 575539, at *3 (W.D.N.Y. Feb. 10, 2014) (citing *Hill v. City of New York*, 45 F.3d 653, 662 (2d Cir. 1995)). In addition, prosecutors are absolutely immune from suit for damages for acts which may be administrative obligations but are "directly connected with the conduct of a trial." *Van de Kamp v. Goldstein*, 555 U.S. 335, 344 (2009).

Plaintiffs' allegations as to the District Attorney-Defendants mentioned above concern those prosecutors' decisions to prosecute Plaintiffs and their conduct as to the prosecutions of Plaintiffs. Plaintiffs' claims for monetary damages against the District-Attorney Defendants, in their individual capacities, are therefore dismissed under the doctrine of prosecutorial immunity and as frivolous. See § 1915(e)(2)(B)(i), (iii); *Collazo v. Pagano*, 656 F. 3d 131, 135 (2d Cir. 2011) ("[A]ny action against a prosecutor for initiating a prosecution or for presenting the prosecution's case that is dismissed *sua sponte* on the ground of absolute prosecutorial immunity is deemed 'frivolous' for purposes of 28 U.S.C. § 1915(g)."); *Montero*, 171 F.3d at 760.

G. *Habeas corpus* relief

The Court construes Plaintiffs' § 1983 claims for injunctive relief that, if successful, would result in Plaintiffs' immediate release, as claims for *habeas corpus* relief. Such claims must be dismissed. Plaintiffs' claims for *habeas corpus* relief – which are construed as brought under 28 U.S.C. § 2254, to the extent that any Plaintiff challenges a state-court judgment that caused his confinement, and otherwise, under 28 U.S.C. § 2241 – must be brought in separate petitions for a writ of *habeas corpus*. *See Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973). A person in state custody may not circumvent the exhaustion prerequisites for *habeas corpus* relief by challenging the basis of his custody in a § 1983 claim. *See id.* at 489-90.

Because Plaintiffs are proceeding *pro se* and because they challenge the legality of their confinement, the Court will construe that portion of Plaintiffs' complaint that seeks Plaintiffs' release as *habeas corpus* petitions. The petitions are denied without prejudice because Plaintiffs have not demonstrated that they have each fulfilled the requirement of exhausting the available state remedies as to their respective grounds for *habeas corpus* relief before bringing this action. *See* 28 U.S.C. § 2254(b)(1)(A), (c) (§ 2254 exhaustion requirement); *United States ex rel. Scranton v. New York*, 532 F.2d 292, 294 (2d Cir. 1976) ("While [§ 2241] does not by its own terms require the exhaustion of state remedies as a prerequisite to the grant of federal habeas relief, decisional law has superimposed such a requirement in order to accommodate principles of federalism."). Once Plaintiffs have exhausted the appropriate available state remedies as to their respective grounds for *habeas corpus* relief, they may each file a separate *habeas corpus* petition in the appropriate federal district court.[4] *See Slack v. McDaniel*, 529 U.S. 473, 485-86 (2000) (dismissal of *habeas corpus* action for failure to exhaust is not an adjudication on the merits); *Graham v. Costello*, 299 F.3d 129, 133 (2d Cir. 2002) ("When a petition is dismissed because it is procedurally defective or because it presents unexhausted claims, we do not consider it to have been denied 'on the merits' because there is a possibility that, once the claims are exhausted in state court or the procedural defect is cured, the claims will be available for review if properly presented in a federal habeas petition.").

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[4] A § 2254 *habeas corpus* petition may be filed in: (1) the federal district court for the judicial district in which the petitioner is confined, or (2) the federal district court for the judicial district in which the state court that issued the challenged judgment is located. *See* 28 U.S.C. § 2241(d). A § 2241 *habeas corpus* petition is generally filed in the federal district court for the judicial district in which the petitioner is confined. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). The Eastern District of New York is comprised of the following New York State counties: Richmond (Borough of Staten Island), Kings (Borough of Brooklyn), Queens (Borough of Queens), Nassau, and Suffolk. *See* 28 U.S.C. § 112(c). The Southern District of New York is comprised of the following New York State counties: New York (Borough of Manhattan), Bronx (Borough of the Bronx), Westchester, Dutchess, Rockland, Orange, Putnam, and Sullivan. *See* 28 U.S.C. 112(b). There is a one-year limitations period to bring a § 2254 *habeas corpus* petition. *See* 28 U.S.C. § 2244(d)(1). The pendency of a federal *habeas corpus* petition does not toll the limitations period for a subsequent § 2254 federal *habeas corpus* petition. *See Duncan v. Walker*, 533 U.S. 167 (2001).

H. The *Younger* abstention doctrine

To the extent that Plaintiffs raise claims for injunctive relief against the District-Attorney Defendants in an attempt to have the Court review and/or intervene with respect to their ongoing state-court criminal proceedings, such claims must be dismissed. In *Younger v. Harris*, 401 U.S. 37 (1971), the United States Supreme Court held that a federal court may not enjoin a pending state criminal proceeding in the absence of special circumstances suggesting bad faith, harassment or irreparable injury that is both serious and immediate. *Younger*, 401 U.S. at 54; *Gibson v. Berryhill*, 411 U.S. 564, 573-74 (1973). "Younger abstention is mandatory when: (1) there is a pending state proceeding, (2) that implicates an important state interest, and (3) the state proceeding affords the federal plaintiff an adequate opportunity for judicial review of his or her federal constitutional claims." *Spargo v. N.Y. State Comm'n on Judicial Conduct*, 351 F.3d 65, 75 (2d Cir. 2003).

Plaintiffs have failed to allege facts demonstrating that their ongoing state-court criminal proceedings afford inadequate "opportunit[ies] for judicial review of [their] federal constitutional claims." *Id.* Plaintiffs' claims for injunctive relief against the District-Attorney Defendants in which they seek this Court's review and/or intervention in Plaintiffs' ongoing state-court criminal proceedings are therefore dismissed under the doctrine first expressed by the United States Supreme Court in *Younger*.

I. The Legal Aid Society

1. Section 1983 claims

Plaintiffs' § 1983 claims against the Legal Aid Society must be dismissed. To state a claim under § 1983, a plaintiff must allege both that: (1) a right secured by the Constitution or laws of the United States was violated, and (2) the right was violated by a person acting under the color of state law, or a "state actor." *West v. Atkins*, 487 U.S. 42, 48-49 (1988). Private parties are not generally liable under the statute. *Rendell-Baker v. Kohn*, 457 U.S. 830, 838-42 (1982); *Flagg Bros. Inc. v. Brooks*, 436 U.S. 149, 155-57 (1978). The Legal Aid Society is not a state actor for the purpose of § 1983 litigation. *Schnabel v. Abramson*, 232 F.3d 83, 86-87 (2d Cir. 2000); *e.g., France v. Legal Aid Soc'y*, No. 14-CV-2348, 2014 WL 1894389, at *3 (E.D.N.Y. May 12, 2014); *see also Polk Cnty. v. Dodson*, 454 U.S. 313, 325 (1981) (public defenders do not act under color of state law); *Rodriguez*, 116 F.3d at 65-66 ("[I]t is well-established that court-appointed attorneys performing a lawyer's traditional functions as counsel to [a criminal] defendant do not act 'under color of state law' and therefore are not subject to suit under 42 U.S.C. § 1983."). Plaintiff's § 1983 claims against the Legal Aid Society are therefore dismissed. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

2. Section 1985 & Section 1986 claims

Plaintiffs' remaining § 1985 and § 1986 conspiracy-based claims against the Legal Aid Society must also be dismissed. In order to state a claim under § 1985, a plaintiff must allege facts that plausibly show that there exists: (1) a conspiracy (2) for the purpose of depriving him of the equal protection of the laws, or the equal privileges or immunities under the laws; (3) an overt act in furtherance of the conspiracy; and (4) an injury to his person or property, or a deprivation of his right or privilege as a citizen of the United States. *Thomas v. Roach*, 165 F.3d 137, 146 (2d Cir. 1999). "[T]he conspiracy must also be motivated by 'some racial or perhaps otherwise class-based, invidious discriminatory animus behind the conspirators' action.'" *Id.* (quoting *Mian v. Donaldson, Lufkin & Jenrette Secs. Corp.*, 7 F.3d 1085, 1088 (2d Cir.1993)); *see Britt v. Garcia*, 457 F.3d 264, 269 n.4 (2d Cir. 2006). A bare allegation of racial motivation without supporting factual allegations is not sufficient to sustain a cognizable conspiracy claim under § 1985. *Posr v. Court Officer Shield No. 207*, 180 F.3d 409, 419 (2d Cir. 1999). Conclusory allegations cannot be the basis for § 1985 claims. *See Webb v. Goord*, 340 F.3d 105, 110-11 (2d Cir. 2003); *Temple of Lost Sheep Inc. v. Abrams*, 930 F.2d 178, 185 (2d Cir. 1991) (conclusory allegations as to § 1985(3) claims properly dismissed under Fed. R. Civ. P. 12(b)(6) for failure to state a claim on which relief may be granted).

Plaintiffs allege that the Legal Aid Society conspires with the District-Attorney Defendants and the State-Court Defendants to subvert Plaintiffs' and other criminal defendants' defenses in their criminal actions and contrives to get Plaintiffs and other criminal defendants to plead guilty. Plaintiffs' allegations, while making fleeting references to racial discrimination, do not allege any class-based animus against Plaintiffs and are the very type of conclusory allegations that have been determined to not be a basis for § 1985 claims. Plaintiffs' § 1985 claims are therefore dismissed. *See* § 1915(e)(2)(B)(ii). Because Plaintiffs' § 1985 claims are dismissed, so are Plaintiffs' related § 1986 claims. *See id.*; *Thomas*, 165 F.3d at 147 ("[A] § 1986 claim must be predicated upon a valid § 1985 claim.").

J. Conditions of confinement

Plaintiffs' claims as to their conditions of confinement in the "bullpen" cells in the state courts are dismissed without prejudice to Plaintiffs' bringing subsequent actions specifically addressing such claims. To the extent that Plaintiffs raise § 1983 claims for prospective injunctive relief as to how New York officials execute policy as to the "bullpen" cells in the state courts, such claims are construed as ones brought under *Ex Parte Young*, 209 U.S. 123 (1908).

Because of the Eleventh Amendment immunity enjoyed by the State of New York and its subdivisions, an *Ex Parte Young* claim cannot be brought against the State or one of its subdivisions; it must be brought against a state official in his or her official capacity. *Halderman*, 465 U.S. at 102-03; *e.g., Mary Jo C. v. N.Y. State & Local Ret. Sys.*, 707 F.3d 144, 166 (2d Cir.), *cert. dismissed*, 133 S.Ct. 2823 (2013). The proper defendant for such a claim is a state official sued in his or her official capacity who has "some connection with the enforcement of the [policy]." *HealthNow N.Y., Inc. v. New York*, 739 F. Supp. 2d 286, 294 (W.D.N.Y. 2010), *aff'd*, 448 F. App'x 79 (2d Cir. 2011) (summary order); *Melendez v. Schneidermann*, No. 14-CV-0622, 2014 WL 2154536, at *8 n.13 (N.D.N.Y. May 22, 2014) ("The Court notes that for purposes of injunctive or declaratory relief, the supervisory official who has the authority to bring about the specific injunctive relief plaintiff seeks[] is an appropriate defendant."). As for § 1983 monetary damages claims, such claims are brought against a state official in his or her individual capacity, and a plaintiff must allege that that state official was personally involved in the alleged violations of the plaintiff's federally protected rights. *E.g., Wright v. Smith*, 21 F.3d 496, 501 (2d Cir. 1994); *Morales v. New York*, No. 13-CV-2586, 2014 WL 2158979, at *12 (S.D.N.Y. May 22, 2014).

As discussed above, Plaintiffs' claims for any relief against the State Court-Defendants – monetary damages or injunctive relief (including any injunctive relief as to the state-court "bullpen" cells) – are proscribed by Eleventh Amendment immunity. Plaintiffs' claims for injunctive relief against the District-Attorney Defendants, to the extent that they are construed as *Ex parte Young* claims as to the conditions of confinement in the state-court "bullpen" cells, are dismissed because Plaintiffs have failed to allege that the District-Attorney Defendants have any connection as to how the state courts execute policy as to those cells. In addition, to the extent that Plaintiffs raise § 1983 individual-capacity claims for monetary damages against the District Attorney-Defendants as to the conditions of those cells, Plaintiffs have failed to allege any personal involvement of the District-Attorney Defendants as to the conditions of those cells. In light of Plaintiffs' *pro se* status, and because the focus of Plaintiffs' complaint is not the conditions of confinement in those cells, Plaintiffs' claims about those conditions are dismissed without prejudice to Plaintiffs' raising claims about them in separate civil actions.

CONCLUSION

The Clerk of Court is directed to mail to Plaintiffs copies of this order and the accompanying judgment; specifically, the Clerk of Court is directed to mail copies of this order to: (1) Plaintiffs Ifill, Debbagh, Bourne, Davis, Julius, Liles, Santiago, Green, Cory, Thompson, Wilson, and Harrigan at the George Motchan Detention Center (the address listed for each of those Plaintiffs); and (2) Plaintiffs Dandridge, Washington, and Wisdom at the following addresses: (a) Walter Dandridge, 14A1775, Auburn Correctional Facility, 135 State Street, P.O. Box 618, Auburn, New York 13021; (b) David Washington, 1411400395, Eric M. Taylor Center, 10-10 Hazen Street, East Elmhurst, New York 11370; and (c) Sidney Wisdom, 07A2619, Green Haven Correctional Facility, 594 Route 216, Stormville, New York 12582-0010. In addition, the Clerk of Court is directed to provide Plaintiff Sampson with a copy of this order at his request. The Clerk of Court must note service of this order on the docket.

Any Plaintiff's claim brought on behalf of another Plaintiff or on behalf of another person is dismissed without prejudice. Plaintiff Ifill's claims brought on behalf of S.L.G. Youth Inc. are dismissed without prejudice.

Plaintiff Ifill's request to proceed *in forma pauperis* is denied and his remaining claims are dismissed without prejudice. Plaintiff Ifill is barred from filing any future civil actions *in* *forma pauperis* as a prisoner, unless he is under imminent danger of serious physical injury, pursuant to 28 U.S.C. § 1915(g).

Plaintiff Sampson's remaining claims are dismissed without prejudice due to his failure to inform the Court of his new mailing address and his failure to either pay the filing fees to bring this action or submit a request to proceed *in forma pauperis* and a prisoner authorization form.

The remaining claims of the other Plaintiffs for *habeas corpus* relief are dismissed without prejudice. The remaining claims of those Plaintiffs as to the conditions of confinement in the state-court "bullpen cells" are also dismissed without prejudice to such claims being raised in separate civil actions. The remaining other claims are dismissed as frivolous, for failure to state a claim on which relief may be granted, for seeking monetary relief from defendants that are immune from such relief, 28 U.S.C. § 1915(e)(2)(B)(i), (ii), (iii), and pursuant to the doctrine first articulated by the United States Supreme Court in *Younger v. Harris*, 401 U.S. 37 (1971).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: July 8, 2014
New York, New York

Loretta A. Preska

LORETTA A. PRESKA
Chief United States District Judge